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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,934	01/30/2004	Yoshihiro Ochiai	018842.1288	3958
24735	7590	08/24/2007		
BAKER BOTTS LLP C/O INTELLECTUAL PROPERTY DEPARTMENT THE WARNER, SUITE 1300 1299 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004-2400			EXAMINER HAMO, PATRICK	
			ART UNIT 3746	PAPER NUMBER
			NOTIFICATION DATE 08/24/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@bakerbotts.com

ED

Office Action Summary

Application No.

10/766,934

Applicant(s)

OCHIAI, YOSHIHIRO

Examiner

Patrick Hamo

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Due to the presence of a preliminary amendment to the claims, the Office action mailed June 22, 2007 is hereby vacated and the following Office action made effective. Any inconvenience to Applicant is regretted.

Information Disclosure Statement

The information disclosure statement filed May 31, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

The disclosure is objected to because of the following informalities: On page 9, the reference numeral 11d is used to refer first to a "rod" and then to a "discharge gas inflow chamber", on lines 16 and 21, respectively. Also on page 9, the reference numeral 11 is used to refer first to a "throttling valve" and then to the "rod", on lines 13 and 22, respectively. In both instances, it seems that the first reference is consistent with the rest of the application and the second reference is a typographical error.

Appropriate correction is required.

Claim Objections

Claims 10 and 12 are objected to for the following minor informalities: they must be identified as "New" claims rather than "Original" as there was neither a claim 10 nor 12 present in the original claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 7 of claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Claims 2-8, which depend from claim 1, are therefore also indefinite. For purposes of examination, the claimed limitation is interpreted as external information detecting means for detecting external information of any kind.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ota et al., US Pat. No. 6,361,283.

Ota discloses a control valve system 50 of a variable displacement swash plate compressor for use in a heating and cooling air conditioner, comprising: a throttling valve (rod portion 82) provided in a refrigerating circuit; a constant differential pressure valve (between rod portions 83 and 84) arranged to open when a differential pressure between upstream (Pc) and downstream (Pd) pressures of the throttling valve reaches a predetermined value, thereby introducing compressor discharge gas to a crank chamber; external information detecting means (35, 36, 37) for detecting external information (temperature, on/off); and control means (C) for determining an opening of the throttling valve based on the external information, wherein the throttling valve is an electromagnetic valve (solenoid, with, for example, coil 71) and integrally mounted to the constant differential pressure valve, wherein the constant differential pressure valve is arranged to introduce the compressor discharge gas 22 on the upstream side of the throttling valve into the crank chamber 5 (see fig. 2), wherein a discharge gas inflow chamber (between 57 and 54) is formed on the upstream side of the throttling valve, the compressor discharge gas in the discharge gas inflow chamber is introduced into the crank chamber (via conduit 27a and 28b), and the discharge gas inflow chamber has a plurality of circumferentially spaced inlets 57 directed tangential to a wall surface of the chamber, wherein the throttling valve has a pressure receiving portion (top portion of

rod 82) that presses the throttling valve in a direction to be opened when it receives a downstream side pressure, and wherein the pressure receiving portion has the same area as that of a downstream-side pressure receiving surface (bottom portion of rod portion 82) of the throttling valve.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ota in view of Hayashi et al., US Pub. No. 2003/0031569.

Ota discloses all of the limitations substantially as claimed except for the following: a cutoff valve disposed on the downstream side of the throttling valve.

However, Hayashi teaches a variable displacement compressor with a cutoff or check valve 38 downstream of the discharge chamber 132 and control valve 41 that is urged to stop when the inclination angle of the swash plate 23 is at a minimum (in which case the air compressor is not operating), which stops the circulation of the refrigerant gas (p. 3, paragraph 38).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the variable displacement compressor of Ota

with the check valve of Hayashi to stop a refrigerant circulation when the compressor is not operating.

Conclusion

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims 'define a patentable invention' without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, 'The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims.'" Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Hamo whose telephone number is 571-272-3492. The examiner can normally be reached on M-F 8:30-5.

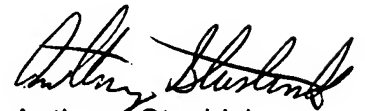
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



PH



Anthony Stashick
Supervisory Patent Examiner
Au 3746